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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,143	12/01/2003	Mary Lucille DeLucia	18897	2664

23556 7590 06/22/2006

KIMBERLY-CLARK WORLDWIDE, INC.
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EXAMINER

MOORE, MARGARET G

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,143

Applicant(s)

DELUCIA ET AL.

Examiner

Margaret G. Moore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 25 is/are pending in the application.
- 4a) Of the above claim(s) 1 to 18 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 to 25 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

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1. Claims 19 to 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Examiner cannot find support for the new limitation regarding the filler. Specifically page 22 does not support the requirement that the filler be present in the film based on the total weight of the core layer. Lines 18 to 20 recite a filled film, based on the total weight of the film layer. It is not clear from this that the film layer is the same as the core layer.

2. Claims 19 to 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, the distinction between "at least one surface" and "the surface of the thermoplastic film" is confusing. It is not clear if this refers to two different surfaces or the same surface. Also reference to "the region proximate the surface of the thermoplastic film" is confusing since it is unclear what this intends.

In claims 21 and 23, reference to "the interior of the film" is confusing since it is unclear if this means the core layer or not.

3. Claim 22 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. This limitation is found in claim 19 and as such it does not appear to further limit the claim.

4. Applicant is advised that should claim 21 be found allowable, claim 23 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing

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one claim to object to the other as being a substantial duplicate of the allowed claim.
See MPEP § 706.03(k).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 19 to 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreck et al.

Schreck et al. teaches a film composed of thermoplastic polymer with particulate hollow bodies as a filler. See for instance column 3, line 50, through column 4. Note that column 4, line 32, teaches an upper amount of 40 wt% filler in this film. This falls within the claimed amount of at least 35 wt%. The polyolefins disclosed meet claims 24 and 25.

Column 11, line 15 and on, teaches that this film can be multilayered and that the top layer can contain an antistatic agent. As an antistatic agent Schreck et al. teach the use of polyether modified polydiorganosiloxanes in an amount of from .05 to .3% by weight. This range overlaps with the claimed range and renders obvious the selection of an amount of polydiorganosiloxane therein.

Since patentees teach that the filled polyolefin can have a top layer having a polyorganosiloxane content within the claimed range, the skilled artisan would have found the claimed film obvious.

While Schreck et al. do not specifically teach that the composition is breathable, applicants admit in their response that the presence of the fillers promote breathability and thus this would be an inherent property in the filled polyolefins of Schreck et al.

For claim 20, the teaching of a polyether modified polydiorganosiloxane would suggest to the skilled artisan the siloxane backbone in claim 20 having polyether groups attached at either terminal Si atoms or backbone Si atoms. In view of this limited

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selection the skilled artisan would have found this particular polysiloxane having polyether groups attached to backbone Si atoms obvious.

For claims 21 to 23, note that the antistatic agent can be present in the top layer but not the base or interlayer.

7. The remaining references are cited as being of general interest. 6,824,878 teaches less than about 30 wt% filler (column 5, lines 55 to 60). 6,455,150 teaches the addition of a silicone oil to an outer layer in an effort to improve machinability (column 6, line 55 and on). This does not teach the necessary amount of filler. 6,576,329 also fails to specifically teach the necessary amount of filler.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Margaret G. Moore
Primary Examiner
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mgm
6/16/06